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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,009	12/31/1998	DEAN ALAN SLAWSON	MSFT112767	4223

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EXAMINER

BASHORE, WILLIAM L

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 01/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/224,009

Applicant(s)  
SLAWSON et al.

Examiner  
William L. Bashore

Art Unit  
2176



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Dec 4, 2000

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-44 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-44 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement

## Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: ☐ approved ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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### **DETAILED ACTION**

1. This action is responsive to communications: original application filed on 12/31/1998, and Petition To Correct Inventorship under 37 C.F.R. 1.48(a) filed on 12/4/2000.
2. Claims 1-44 are pending in this case. Claims 1, 16, 24, 38 are independent claims.

#### ***Inventorship***

3. In view of the papers filed 12/4/2000, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Eric L. Brechner as a co-inventor of Application Serial No. 09/224,009.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

#### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: Visual Thesaurus As Applied To Media Clip Searching.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. **Claims 6, 13, 29, 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**In regard to dependent claims 6, 29, the phrase “artistic style” is vague and indefinite. An artistic style is a highly subjective phrase. It is unclear to the Examiner as to how this can be quantified.**

**In regard to dependent claims 13, 36, claims 13, 36 recite the limitation “the keywords” in each of said claims. There is insufficient antecedent basis for this limitation in the claim.**

***Examiner’s Notes***

7. **For the following sets of rejections, the Examiner interprets artistic style (claims 6, 29) as a style indicative of color or shape, and interprets “the keywords” (claims 13, 36) as indicative of clip attributes.**

***Claim Rejections - 35 USC § 102***

8. **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. **Claims 1-9, 14-20, 23-32, 37-42 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The invention is Cox et al. (hereinafter Cox), U.S. Patent No. 5,696,964 issued December 9, 1997.**

**In regard to independent claim 1, Cox discloses:**

- PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button "GO", after which said invention searches and presents a second set of images similar to what was initially selected. (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28; compare with claim 1).

- selection of both a media clip, and a search criteria. Cox's invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the image attributes (ie. color, shape, etc.) inherent within said image is used as search criteria by the system (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claim 1 "*selecting a media clip and a search criteria*").

**In regard to dependent claims 2-4, Cox discloses display of the best four retrieved images displayed for user review. This process (including displaying a plurality of clip images) is repeated by said user until a match is indicated (Cox Figure 2, column 5 lines 29-40; compare with claims 2-4).**

**In regard to dependent claims 5-8, Cox discloses a media type (images), as well as search criteria based upon color or shape (Cox column 5 lines 48-52; compare with claims 5-8).**

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**In regard to dependent claim 9**, claim 9 reflects the combined subject matter of claims 7 and 8, and is rejected along the same rationale.

**In regard to dependent claims 13-14**, Cox discloses analyzation of attributes of a user selected clip image (Cox column 5 lines 62-67, column 6 lines 1-23; compare with claim 13). Cox discloses searching and presentation of files of type image from an image database (Cox column 8 lines 19-25; compare with claim 14).

**In regard to dependent claim 15**, a computer readable medium (ie diskette or hard drive) used for holding instructions is known in the art (compare with claim 15).

**In regard to independent claim 16**, Cox discloses:

- PicHunter, a media searching tool comprising a GUI interface with four displayed images (clips). A user selects an image, then optionally selects button "GO", after which said invention searches and presents a second set of images similar to what was initially selected (Cox Figure 2, column 5 lines 29-45; compare with claim 16).

**In regard to dependent claim 17**, Cox discloses a graphical red border around selected clips, as well as a "GO" button for finding similar clips (Cox column 5 lines 32-40; compare with claim 17).

**In regard to dependent claim 18**, Cox discloses a user selecting an image, then pressing a "GO" button, resulting in the display of four more images similar to the original image. A user subsequently selects

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another image, the aspects of the selected image itself serves as search criteria for the system to possess (Cox column 5 lines 1-4, 30-45; compare with claim 18).

**In regard to dependent claims 19-20, 23**, a fly-out window (ie. an overlaying window, or balloon help annotation with additional information, etc.), is known in the art (compare with claim 19). An option for inserting an image into a document (ie. clipboard copy and paste), is known in the document processing art (compare with claim 20). A computer readable medium (ie diskette or hard drive) used for holding instructions is known in the art (compare with claim 23).

**In regard to independent claim 24**, Cox discloses:

- presentation of application *PicHunter* onto a computer monitor beside an image retrieval interface, which inherently includes processors associated with said monitor/interface (Cox column 3 lines 44-46; compare with claim 24 “*a processing unit*”).

- a storage medium (ie. diskette, or hard drive), is known in the art (compare with claim 24 “*a storage medium*”).

- *PicHunter*, a media searching tool comprising a GUI interface with four displayed images (clips) from a clip database. A user selects an image, then optionally selects button “GO”, after which said invention searches and presents a second set of images similar to what was initially selected (Cox Figure 2, column 5 lines 29-45, column 8 lines 19-28; compare with claim 24 “*an interface*”, and “*retrieving all clips....user selecting the media clip.*”).

- selection of both a media clip, and a search criteria. Cox’s invention involves the analyzation of a user selected image, so that a similar set of images can be retrieved/presented. In choosing an image, the

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image attributes (ie. color, shape, etc.) inherent within said image is used as search criteria by the system (Cox Abstract, column 5 lines 35-45, 62-67, column 6 lines 1-23; compare with claim 24 “*selecting the media clip and the search criteria*”).

**In regard to dependent claims 25-32, 36-37**, claims 25-32, 36-37 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 2-9, 13-14, respectively, and are rejected along the same rationale.

**In regard to independent claim 38**, Cox discloses:

- presentation of application *PicHunter* onto a computer monitor beside an image retrieval interface, which inherently includes processors associated with said monitor/interface (Cox column 3 lines 44-46; compare with claim 38 “*a processing unit*”).

- a storage medium (ie. diskette, or hard drive), is known in the art (compare with claim 38 “*a storage medium*”).

- *PicHunter*, a media searching tool comprising a GUI interface with four displayed images (clips). A user selects an image, then optionally selects button “GO”, after which said invention searches and presents a second set of images similar to what was initially selected (Cox Figure 2, column 5 lines 29-45; compare with claim 38 “*displaying to the user....user selecting the media clip.*”).

**In regard to dependent claims 39-42**, claims 39-42 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 17-20, respectively, and are rejected along the same rationale.



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***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 21-22, 43-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox et al. (hereinafter Cox), U.S. Patent No. 5,696,964 issued December 9, 1997.

In regard to dependent claim 21, Cox does not specifically teach image previewing. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Cox, because Cox teaches a search interface of multiple clip images, with each image viewed and judged by a user until said user presses "FOUND", indicating that the target image is found, suggesting a preview of images until said user finds a target (Cox column 5 lines 30-45; compare with claim 21). This suggestion provides the advantage of allowing a user to visualize groups of candidate images at once for more precise selection.

In regard to dependent claim 22, Cox does not specifically teach an option to add a clip to a category. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Cox, because Cox teaches an embodiment whereby a user can press to independently indicate whether an image resembles a target's color, texture, etc., suggesting independent categorization of

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clip images by a user (Cox column 5 lines 46-54; compare with claim 22). This suggestion provides the advantage of allowing a user more freedom of control for more customized categorizations.

**In regard to dependent claims 43-44**, claims 43-44 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 21-22, respectively, and are rejected along the same rationale.

12. **Claims 10-12, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claims 1 and 24 above, and further in view of Jain et al. (hereinafter Jain), U.S. Patent No. 5,893,095 issued April 1999.**

**In regard to dependent claims 10-12**, Cox does not specifically teach keywords as search criteria. However, Jain teaches content based search and retrieval comprising image analysis, along with a query window comprising a set of keywords, as well as single keyword (ie. "Trekking") and a keyword indicative of a file name (ie. Himasky.gif) (Jain Figure 3, also column 11 lines 16-24; compare with claims 10-12). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the keyword query of Jain to the search criteria of Cox, allowing a user of Cox greater latitude in choosing search criteria.

**In regard to dependent claims 33-35**, claims 33-35 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 10-12, respectively, and are rejected along the same rationale.

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***Conclusion***

**13. Prior art made of record and not relied upon is considered pertinent to disclosure.**

Gustmann	U.S. Patent No. 6,199,060	issued	03/2001
Paik et al.	U.S. Patent No. 6,263,335	issued	07/2001
Hirata	U.S. Patent No. 6,269,358	issued	07/2001
Syeda-Mahmood	U.S. Patent No. 5,983,218	issued	11/1999

Santini, S. et al., Beyond query by example, 1998 IEEE Second Workshop, December 7-9, 1998, pp. 3-8.

Alwis, S. et al., IEEE Colloquium on Neural Networks in Interactive Multimedia Systems, October 22, 1998, pp. 1-5.

**14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Bashore whose telephone number is (703) 308-5807. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached on (703) 308-5186.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

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15. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 746-7239** (for formal communications intended for entry)

**or:**

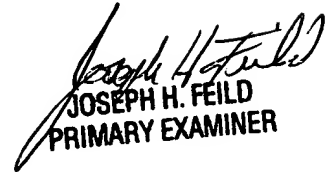
**(703) 746-7240** (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

**or:**

**(703) 746-7238** (for after-final communications)

**Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Fourth Floor (Receptionist).**

William L. Bashore  
01/09/2002

  
JOSEPH H. FEILD  
PRIMARY EXAMINER